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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/695,442	10/29/2003	Kenji Ueyama	50024-021	4582

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MCDERMOTT WILL & EMERY LLP  
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WASHINGTON, DC 20005-3096

EXAMINER
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KAHELIN, MICHAEL WILLIAM

ART UNIT	PAPER NUMBER
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3762

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/24/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/695,442

Applicant(s)

UEYAMA, KENJI

Examiner

Michael Kahelin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 8-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 20061218.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Objections*

1. Claim 1 is objected to because of the following informalities: "deice" should read "device". Appropriate correction is required.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Sun et al. (US 5,861,019, hereinafter "Sun").
4. In regards to claim 1, Sun discloses a portable ECG system comprising a stacked circuit board (Fig. 15), an EGM measurement device, and a radio communication device that transmits an EGM in real time (col. 8, line 66). Further, the stacked-layered circuit board comprises a plurality of circuit boards (30 and the internal circuitry disclosed at col. 8, line 30 and by reference of US 5,470,345), a ground layer between the plurality of circuit boards (48 and col. 10, line 37), wherein the EGM measurement device is on one side of the board (internal to the device) and the radio communication device (30) is arranged on the other side. Please note that Sun's device

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meets the limitations of "stacked-layered circuit board" because it comprises a circuit and is stacked.

5. In regards to claim 2, the device comprises a casing that houses the EGM, radio communication device, and stacked layer circuit board (col. 10, line 48).

6. In regards to claim 3, the device comprises a first storage device that stores ECG data (col. 8, line 42).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sun. Sun discloses the essential features of the claimed invention including an activity sensor (col. 8, line 34) and a programmer for uplink telemetry with the ECG device (col. 8, line 15). Sun does not disclose that the activity sensor is an accelerometer, the external programmer has a second storage device, or that the portable ECG outputs an alarm sound or display in response to an alarm signal. It is well known in the art to provide ECG devices with accelerometer activity sensors to provide a simple, low-cost means to correlate physical activity with heart activity; storing uploaded data in a memory in programmers to allow the data to be later analyzed or displayed; and outputting an alarm sound or display in response to an alarm signal to notify a patient of a possible

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adverse condition. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Sun's invention with an accelerometer activity sensor to provide a simple, low-cost means to correlate physical activity with heart activity; means for storing uploaded data in a memory in programmers to allow the data to be later analyzed or displayed; and means for outputting an alarm sound or display in response to an alarm signal to notify a patient of a possible adverse condition.

### ***Response to Arguments***

9. Applicant's arguments filed 12/18/2006, with respect to the rejections in view of Sun, have been fully considered but they are not persuasive. Applicant argued that Sun fails to disclose claim 1 because Sun is lacking disclosure of a ground conductor layer provided between a plurality of circuit boards. Applicant argued that Sun fails to disclose this element because element 30 of Sun's disclosure is an antenna, not a circuit board. However, referring to Figure 15, Examiner maintains that element 30 and the underlying substrate 36 of Sun's disclosure is a circuit board because it comprises a nonconductive substrate (36) that supports a circuit element (30 and 38). Furthermore, the ground layer (48) of Sun's invention isolates (both physically and electrically) the EGC measurement device and communication device.

***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Kahelin whose telephone number is (571) 272-8688. The examiner can normally be reached on M-F, 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWK

*MK*  
4/17/07

GEORGE R. EVANISKO  
PRIMARY EXAMINER

4/19/07